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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,251	12/09/2003	Thomas E. Pride	MAC 426-15	3351
7590 William A. Blake Jones, Tullar & Cooper, P.C. P.O. Box 2266 Eads Station Arlington, VA 22202			EXAMINER QUINN, COLLEEN M	
			ART UNIT 3634	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			12/21/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,251	<b>Applicant(s)</b> PRIDE, THOMAS E.	
	<b>Examiner</b> Colleen M. Quinn	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 9<sup>th</sup>, 2006 has been entered.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on December 9<sup>th</sup>, 2002. It is noted, however, that applicant has not filed a certified copy of the 2,413,688 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the applicant means by "panel-type" articles. If the applicant intends to claimed invention to support panels, it needs to be clearly stated. Appropriate correction is required.

Additionally, the use of "and/or" in claim 16 renders claims 16-20 indefinite, as it is an improper claim term. If the applicant intends the clamping cartridges to be used for "at least one of" clamping, spacing, separating "and" supporting one or more articles, it needs to be clearly stated.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Leventry (US 1,454,900). Leventry discloses a rack (Figure 1) having a frame (1) and a plurality of horizontally oriented clamping mechanisms (8) spaced vertically along the frame. Actuation means (17) functions to open and close all clamping mechanisms in unison (pg. 2 lines 96-106). Spring (19) maintains all the clamping mechanism individually normally biased in a closed position (pg 2 lines 106-119). Further each clamping mechanism is individually self-adjusting upon closing (pg. 1 lines 70-75 and pg. 2 lines 122-127).

With respect to claim 2, each clamping mechanism (8) comprises a pair of relatively movable jaws (9), and the actuation means (17) has a rod (18) connected to a lever (23), which is capable of overcoming the closing bias of the spring (19).

With respect to claim 3, each jaw (9) has a pair of levers (10) connected to the actuating means (17) through a pivot bolt (11).

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Regarding claims 16 & 17, the rack of Leventry forms a transportation/shipping package comprising one or more clamping cartridges (Figure 1), capable of clamping, spacing, separating and supporting one or more articles, and comprising seating means (6), which cooperate with the one or more clamping cartridges for supporting the articles.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-8 and 16-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Volkert et al. (US 6,588,605). Volkert et al disclose frames (23, 25), a plurality of clamping mechanisms (40,44 & Figure 1), spaced apart along the frame and generally oriented perpendicular to their direction of spacing (Figure 1), being individually biased towards a closed position, via spring (Specification, column 8, lines 10-14), actuation means (234,236,238,266) operable with the clamping mechanisms for opening and closing the clamping mechanisms (Abstract), the clamping mechanisms being individually self adjusting upon closing (Specification, column 6, lines 36-40).

Regarding claims 2-8, the clamping mechanisms comprise relatively movable jaws (40A-C, 44)), operated by the actuation means to overcome the closed position, levers (246A-C), connected to the jaws (Figures 6A-D), the actuation means operable with the levers to open and close the jaws (Abstract), the levers having a distal end (as in end 259B labeled on middle lever, unlabeled on other levers), the ends of the levers

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moved relatively towards one another by actuation means, causing jaws to open (Specification, column 7, lines 54-67 – column 8, lines 1-9), the actuating means comprising camming means (244A-C), and control means (250), the distal ends of the levers extending through (via 248A-C) the frame (Figure 6B), engaging the camming means (Figure 6B), operable by the control means (Specification, column 7, line 64), causing the clamping mechanisms to open and close in unison (Abstract). The control means comprising a rotatable shaft (242), in the direction of the spacing of the clamping mechanisms (Figures 1 & 7), the camming means comprising a plurality of cam wheels disposed on and fixed to rotate with the rotatable shaft (Figure 8), the cam wheels having radial sides, forming cam surfaces, varying in the axial direction, with the revolution of the wheel (Figures 6D & 9), the cams being disposed adjacent the distal ends of the levers (Figures 6b & 8), wherein, the rotating of the shaft either brings the distal ends nearer or further apart, resulting in the opening or closing of the jaws (Specification, column 7, lines 54-67 – column 8, lines 1-57) and the cam surfaces being generally planar (Figures 8 & 9).

Regarding claims 16-20, Volkert et al. disclose a transportation /shipping package comprising one or more clamping cartridges as claimed in claim 1 used to clamp, space, separate and support one or more panel-type articles (as advanced above), further comprising seating means (50) which cooperate with the clamping mechanisms to support the panel-type articles (Figures 2 & 4), the clamping cartridges provided in pairs (Figure 2), the pairs being oriented generally perpendicular to each other, for clamping adjacent perpendicular edges of articles (Figures 1-2), the clamping

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mechanism pairs aligning in the same panes as each other (Figure 2), and disposed at an angle to the transportation/shipping package (Figure 4).

### ***Response to Arguments***

Applicant's arguments filed November 9<sup>th</sup>, 2006 have been fully considered but they are not persuasive. The applicant argues that the clamping mechanisms are not individually biased to a closed position, and that because the spring of Leventry acts to close all of the clamping mechanisms, that Leventry does not teach individual biasing. This is not found persuasive as the spring clearly affects each and every one of the clamping mechanisms, meaning each individual clamping mechanism is biased to a closed position. Just because they are simultaneously biased, does not mean they are not each individually affected by this force. For those reasons the Examiner has not found the Applicant's arguments to be persuasive.

The Applicant also argues that the clamping mechanisms are not self-adjusting. This is not found persuasive as Leventry clearly states (Specification, page 1, lines 70-75) that the clamping mechanisms adapt to different sized articles, which the Applicant recognizes in "Remarks", page 2, par. 003, lines 7-8. When Leventry states that gripping devices apply a uniform amount of pressure at each gripping device location, he is disclosing that the gripping devices, in fact contact the held article at each gripping device location, therefore showing the gripping means must have individually adjusted to varying (even if it is a slight taper) degrees in order to make contact, and to apply pressure, at each location.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Applicant should additionally consider the prior art of Bartholomew et al. (US 6,705,466).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571)272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ  
12/12/06

  
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